



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[EPA-HQ-OLEM-2016-0274; FRL-9949-43-OLEM]

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Extension of Compliance Deadlines for Certain Inactive Surface Impoundments; Response to Partial Vacatur

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to extend for certain inactive coal combustion residuals (CCR) surface impoundments the compliance deadlines established by the regulations for the disposal of CCR under subtitle D of the Resource Conservation and Recovery Act (RCRA). These revisions are being proposed in response to a partial vacatur ordered by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) on June 14, 2016.

DATES: Written comments must be received by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments postmarked after the close of the comment period will be stamped “late” and may or may not be considered by the Agency.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OLEM-2016-0274, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information

you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: For information concerning this proposed rule, contact Steve Souders, Office of Resource Conservation and Recovery, Environmental Protection Agency, 5304P, Washington DC 20460; telephone number: (703) 308-8431; email address: souders.steve@epa.gov. For more information on this rulemaking please visit <https://www.epa.gov/coalash>.

SUPPLEMENTARY INFORMATION

I. General Information

A. Does this action apply to me?

This proposed rule applies only to those owners or operators of inactive CCR surface impoundments that meet all three of the following conditions: (1) complied with the requirement at 40 CFR 257.105(i)(1) by placing in their facility's written operating record a notification of intent to initiate closure of the CCR unit as required by 40 CFR 257.100(c)(1), no later than December 17, 2015; (2) complied with the requirement at 40 CFR 257.106(i)(1) by providing notification to the relevant State Director and/or appropriate Tribal authority by January 19, 2016, of the intent to initiate closure of the CCR unit; and (3) complied with the requirement at

40 CFR 257.107(i)(1) by placing the notification of intent to initiate closure of the CCR unit on the owner or operator's publicly accessible CCR Web site no later than January 19, 2016.

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding FOR FURTHER INFORMATION CONTACT section.

B. Why is EPA issuing this proposed rule?

This action proposes to extend the deadlines for the owners and operators of those inactive CCR surface impoundments that had taken advantage of the "early closure" provisions of 40 CFR 257.100, who became newly subject to the rule's requirements for existing CCR surface impoundments on June 14, 2016 when the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) ordered the vacatur of those provisions. This proposed rule provides time for these owners and operators to bring their units into compliance with the rule's substantive requirements, but does not otherwise amend the rule or otherwise impose new requirements on those units. In the "Rules and Regulations" section of this Federal Register, we have also published a direct final rule for this same action because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reason for this in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule and the direct final rule will become effective as provided in that action. If we do receive adverse comment, we will publish a timely notice in the Federal Register withdrawing the direct final rule and it will not take effect. We will address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time, for further information about commenting on this rule see the ADDRESSES section of this document.

C. Where is the location of regulatory text for this proposal?

The regulatory text for this proposal is identical to that for the direct final rule published in the Rules and Regulations section of the Federal Register. For further supplemental information, the detailed rationale for the proposal, and the regulatory revisions, see the information provided in the direct final rule published in the Rules and Regulations section of this Federal Register.

II. Statutory Authority

These regulations are established under the authority of sections 1006(b), 1008(a), 2002(a), 4004, and 4005(a) of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6906(b), 6907(a), 6912(a), 6944, and 6945(a).

III. Statutory and Executive Order (EO) Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this Federal Register.

List of Subjects in 40 CFR part 257

Environmental protection, Beneficial use, Coal combustion products, Coal combustion residuals, Coal combustion waste, Disposal, Hazardous waste, Landfill, Surface impoundment.

Dated: July 26, 2016.

Gina McCarthy,

Administrator.

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